

AO 91 (Rev. 5/85) - Criminal Complaint

**E-FILING****United States District Court**

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA

V.

Austreberto PADILLA-Serrano

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.**CRIMINAL COMPLAINT****08-70161** **RS**

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, November 27, 2007, in Santa Clara County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326  
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:  
Official Title

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM: \_\_\_\_\_

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

3/21/08

Date

at

San Jose, California

City and State

Richard Seeborg  
UNITED STATES MAGISTRATE JUDGE  
Name & Title of Judicial Officer

Signature of Judicial Officer

RE: Austreberto PADILLA-Serrano

A 72 987 563

I, Timothy F. Purdy, am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Austreberto PADILLA-Serrano, is a 40 year-old married male whose Date of Birth is currently understood to be May 12, 1968. He is a citizen and native of Michoacan, Mexico as substantiated by sworn statements made to that effect by the DEFENDANT on both March 9, 1999 and January 3, 2002;
- (2) The DEFENDANT has been assigned Alien Registration number of A 79 987 563, FBI number of 458602KA1, and California Criminal State ID Number of A09046503;
- (3) On March 16, 1994, the DEFENDANT was convicted in the Superior Court of California/County of San Mateo, for the offense of: SALE OF HEROIN, a felony, in violation of California Health and Safety Code Section 11352, for which the DEFENDANT was sentenced to three years in prison. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (4) On October 20, 1995, the DEFENDANT was determined to be unlawfully present in the United States and ordered removed from the United States by order of the Immigration Judge at Imperial, California. The DEFENDANT was subsequently removed from the Port of Entry at Calexico into Mexico on that same day;
- (5) On March 10, 1999, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following offenses: DUI ALCOHOL/DRUGS, a misdemeanor, in violation of California Vehicle Code Section 23152(a), POSSESSION OF A CONTROLLED SUBSTANCE-COCAINE, a felony, in violation of California Health and Safety Code Section 11350(a) and PROVIDING A FALSE NAME TO A PEACE OFFICER, a misdemeanor, in violation of California Penal Code Section 148.9, for which the DEFENDANT was sentenced to nine months in jail;
- (6) On September 8, 1999, the DEFENDANT was determined to be unlawfully present in the United States and ordered removed by order of the INS District Director San Francisco, California from the United States to Mexico;

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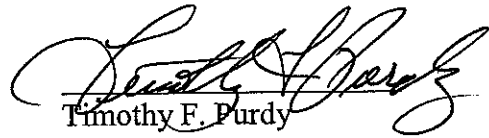
A 72 987 563

- (7) On November 1, 2000, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following offenses: POSSESSION FOR SALE OR PURCHASE FOR SALE OF A CONTROLLED SUBSTANCE, a felony, in violation of California Health and Safety Code Section 11351 and POSSESSION OF AMMUNITION BY A PROHIBITED PERSON, a felony, in violation of California Penal Code Section 12316(B) for which the DEFENDANT was sentenced to three years in prison;
- (8) On January 3, 2002, the DEFENDANT was determined to be unlawfully present in the United States and ordered removed by order of the INS District Director San Francisco, California from the United States to Mexico;
- (9) On November 3, 2007, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following offenses: POSSESSION OF A CONTROLLED SUBSTANCE, a felony, in violation of California Health and Safety Code Section 11377 *and* DRIVING WITH A BLOOD ALCOHOL LEVEL OF 0.08 OR MORE, a misdemeanor, in violation of California Vehicle Code Section 23152(b) for which the DEFENDANT was sentenced to six months in jail;
- (10) On, November 27, 2007, the DEFENDANT came to the attention of DRO/ICE San Jose Office during a daily index research into SCCJ inmates by IEA Joseph Oidem. During a follow-up interview at DRO/ICE San Jose Office on March 18, 2008, the DEFENDANT was determined to be unlawfully present in the United States after a prior deportation. IEA Oidem read the DEFENDANT of his Miranda rights in the Spanish language;
- (11) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (12) On March 18, 2008, the DEFENDANT'S fingerprints were taken as part of the standard booking procedure at DRO/ICE San Jose. A latent print examiner at the Santa Clara County Sheriff's Department compared those fingerprints with fingerprints of Austreberto PADILLA-Serrano (A 79 987 563) on official documents in his Administrative File. The latent print examiner determined that the fingerprints were identical and related to Austreberto PADILLA-Serrano (A 79 987 563).


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A 72 987 563

- (13) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.

  
Timothy F. Purdy  
Deportation Officer  
Immigration and Customs Enforcement

Subscribed and sworn to before me this 21<sup>st</sup> day of March, 2008

  
Richard Seeborg  
UNITED STATES MAGISTRATE JUDGE